

8/24/11

INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF New Glarus AND THE VILLAGE OF New Glarus

Village of New Glarus /Town of New Glarus-This is an Intergovernmental Agreement ("Agreement") made and entered into this _____ day of _____, 2011, by and between the Town of New Glarus, a municipality located in Green County, Wisconsin, ("Town") and the Village of New Glarus, a municipality located in Green County, Wisconsin, ("Village").

SECTION 1. RECITALS

- 1.1 The Town and the Village enjoy a good relationship. The Town and the Village believe that entering this Agreement will preserve and improve the good relationship and provide greater certainty with respect to joint planning in the future. This agreement results from negotiations by a joint Village and Town committee whose mission statement is, "It shall be the purpose of the Joint Committee to carry out honest and energetic discussions of issues and problems facing the Village and Town and further to make concerted effort to bring these issues and problems to a timely conclusion, acceptable to both parties."
- 1.2 The Town does not believe it is economical for the Town to attempt to provide a full range of urban services to high-density urban development. The Town and Village agree that the predominant share of population growth in areas adjacent to the Village can best be accommodated in higher density residential developments served by urban services such as sewer and water. The Town and the Village agree that the Town can best serve its constituents with consistent tax base growth and should preserve that tax base growth by allowing development close to the village. Therefore, the Town and Village agree that all new residential development adjacent to the Village should occur in compliance with applicable Village development standards and requirements, and shall be served by ~~a full range of~~ **sewer, water and electric** municipal services provided by the Village but shall not be annexed to the Village during the term of this agreement.
- 1.3 Capital infrastructure improvements typically require a planning, design and construction timeline of several years in length. This Agreement will enable the Village to plan and design for the ultimate extension of public infrastructure improvements into all of the developing areas adjacent to the Village that will eventually become annexed to the Village. The timely extension of such public infrastructure and the orderly phasing of urban growth and development will be greatly enhanced by such planning.
- 1.4 Both parties agree that a new and expanded Library will be a necessary addition to the community and have agreed to support and promote such a venture. In order to expand support of our local Library and its necessary expansion the parties have, within this agreement, defined certain revenue sharing (R.S.) mechanisms.

1.5 To facilitate the required planning, a Joint Planning Committee (JPC) shall be established.

SECTION 2: ESTABLISHMENT OF JOINT PLANNING COMMITTEE (“JPC”)

- 2.1 **Establishment of Joint Planning Committee.** The Town and the Village do hereby create a Joint Planning Committee (“JPC”) to serve as a recommending body to the Town Board, Town Land Use Committee, Village Board, and Village Planning Commission for the purposes set forth in this Agreement.
- 2.2 **Advisory Nature of JPC.** The JPC’s recommendations are advisory to the Town Board and Town Land Use Committee, Village Plan Commission and Village Board.
- 2.3 **Membership:** The JPC shall consist of six (6) members, three (3) of whom are appointed by the Town Chairperson subject to confirmation by the Town Board and three (3) of whom are appointed by the Village President subject to confirmation by the Village Board.
- 2.4 **Appointments, Term:** Initial appointments for the Town’s delegation shall be for a term of one (1) year for one member, two (2) years for the one member and three (3) years for the third member, and for the Village’s delegation, the delegation shall be for a term of one (1) year for one member, two (2) years for the one member and three (3) years for the third member. Following initial appointments, regular appointments shall be made in May of each year, as needed. Following initial appointments, all members of the JPC shall serve for terms of three (3) years.
- 2.5 **Vacancy:** A vacancy shall be created if a JPC member’s residency terminates during the term of appointment or if the position is otherwise not filled due to resignation, failure to attend three (3) or more consecutive meetings or by removal for cause¹ by the governing board of the respective municipality. Vacancies shall be promptly filled for the unexpired term in the same manner as the original appointment and successors shall serve the remaining term.
- 2.6 **Officers:** There shall be a chairperson and vice chairperson of the JPC. The chairperson for the JPC shall alternate from the Town to the Village on an annual basis at-large. In the first year the chairperson shall be elected from the Village of New Glarus representatives. The vice chairperson shall be from the community that is not serving as the chairperson. The chairperson and vice chairperson shall be elected by the JPC annually on the third Tuesday of June. A secretary shall be appointed by the JPC. Per diem shall be determined and paid by the respective municipality sending the JPC chairperson..
- 2.7 **Meetings:** the chairperson shall conduct Meetings. In the chairperson’s absence, meetings shall be conducted by the vice chairperson. Meetings of the JPC may be called by the chairperson of the JPC, the Town Chairperson, or the Village President and shall be on the third Tuesday of the month. The JPC shall meet at least annually. The meeting location shall be the chair’s municipal building. Members shall receive per diems as determined by the community that the member

¹ “Cause” shall include inefficiency, neglect of duty, official misconduct or malfeasance, as those terms are defined in Wis. Stats. sec. 17.16 (2) (1999-2000).

represents. The JPC's recommendations shall be made as determined by simple majority. If there is no majority on a particular issue, the report back to the Town and Village Boards shall state that the JPC is divided and unable to make a recommendation. The notices and conduct of the meetings shall be in accordance with the Wisconsin Statutes governing open meetings and open records.

- 2.8 **Cost Sharing:** Any outside consultant costs or fees (including but not limited to joint engineering, planning or legal) to be incurred by the JPC must be pre-approved by the Town Board and Village Board. Such pre-approved costs will be shared proportionally based on the equalized value of the Town and Village. With the exception of such pre-approved costs, all costs shall be borne by the Town and Village as incurred by the Town and Village.
- 2.9 **Duties of Joint Planning Committee:** As set forth below, the JPC's responsibilities shall include: review and comment on certain aspects of both communities comprehensive or smart growth plans; cooperative planning (such as storm water management, recreation facilities, emergency services, cell towers, telecommunications facilities and fiber optics, and schools) cooperative efforts on joint municipal services; periodic review of this Agreement; and, such other planning issues as are assigned from time to time to the JPC by both the Town and Village.
- 2.9.1 Other duties as assigned. In addition to the duties described above, the JPC shall also perform such duties as may be assigned to it from time to time jointly by both the governing boards of the Town and the Village.

SECTION 3: GENERAL PROVISIONS

- 3.1 **No third party beneficiary:** This Agreement is intended to be solely between the Town and the Village. Nothing in this Agreement accords any third party any legal or equitable rights whatsoever. A non-party shall not have standing to enforce this Agreement.
- 3.2 **Administration of agreement:** This Agreement shall be administered on behalf of the Village by the Village President or the Village President's designee and on behalf of the Town by the Town Board Chairperson or the Town Board's Chairperson's designee. The administration of this Agreement shall include the implementation of policies and procedures that will effectuate the purposes and spirit of this Agreement.
- 3.3 **Enforcement:** This Agreement is intended to provide each party with the right and standing to challenge by court action (including action by *certiorari* or otherwise to declare a governmental act invalid) any act of the other party that violates this Agreement. This Agreement is intended to provide each party with the right and standing to seek any available legal or equitable remedy to enforce or seek damages for the breach of this Agreement. In any action concerning an alleged violation of this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable costs and expenses of litigation, including reasonable attorneys' fees.
- 3.4 **Term of agreement;** This Agreement shall remain in effect for a twenty (20) year period. The Agreement shall commence upon the final execution date and shall end on the December 31 of the 20th year after the execution date. No breach or

violation of any of the terms of this Agreement by either party shall operate to void or terminate or provide grounds for termination of this Agreement, it being the intent of the parties that any such breach or violation shall only be redressed, enjoined or otherwise remedied by the exercise of any lawful contractual enforcement remedies then available to be used by the aggrieved party to enforce the terms of this Agreement.

- 3.5 **Amendment:** This Agreement may be amended at any time by written agreement by the governing bodies of both parties.
- 3.6 **Complete agreement:** This Agreement represents the entire integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral
- 3.7 **Enforceability:** The parties have entered into this Agreement under the authority granted by sections 66.0301 and 62.23 (7a) of the Wisconsin Statutes. Its enforceability will not be affected by changes in the forms of Town or Village government, or changes in elected officials. The parties agree that this Agreement shall be construed so as to be binding on their respective successors, agents and employees.
- 3.8 **No waiver:** The failure of any party to require strict performance with any provision of this Agreement will not constitute a waiver of the provision or of any of the parties' rights under this Agreement. Rights and obligations under this Agreement may only be waived or modified in writing. The party waiving the right must sign a writing waiving a right. If an obligation of a party is being waived or released of one obligation, will not constitute a waiver or release of any other right or obligation of any party. Waivers and releases will affect only the specific right or obligation waived or released and will not affect the rights or obligations of any other party that did not sign the waiver or release.
- 3.9 **Performance standard:** This Agreement requires the parties to act or to refrain from acting on a number of matters. The parties hereby acknowledge that this Agreement imposes on them a duty of good faith and fair dealing.
- 3.10 **Severability:**

SECTION 4. ANNEXATION

- 4.1 No territory outside of the Black line of Map #08-11, see Appendix A, shall be annexed to the Village for residential development during the term of this agreement
- 4.2 Automatic Annexation. If any lands outside of the Black line of Map #08-11 are annexed to the Village after the 20th year of this agreement, the Village agrees to reimburse the Town as liquidated damages and not as a penalty an amount as

follows: Payment in an amount equal to the amount of real property taxes that the Town levied for residential development on the annexed territory, as shown by the tax roll under s. 70.65, in the years 16 through 20 of the contract (agreement). These payments are to be spread equally over the immediate 10-year period following the annexations.

4.2.1 Pre-Annexation Agreement. The Town agrees to amend its ordinances to include that developers of properties immediately adjacent to the Village that are developed during the term of this agreement shall be required to accept Pre Annexation Agreements, as defined by Village's counsel.

4.3 Personal property taxes and real property taxes levied for Commercial and Industrial developments shall be exempt from the payments of 4.2.

4.4 Residential properties that are developed previous to this agreement or that are not adjacent to the Boundary line (Black Line of map # 08-11) are exempt from automatic annexation, per art. 4.2.

4.3 Both parties agree that there shall be no annexation of property for residential purposes during the term of this agreement, other than those existing residential properties located adjacent to the High School and within the "Black Line" of Map 08-11.

4.4 Annexed lands shall be contiguous and contiguity exists where tracts of land touch or adjoin in a reasonably substantial physical sense.

REVENUE 5. REVENUE SHARING

5.1 Town pays Village. This revenue sharing starts in the calendar year following the full execution of a CBA between the Town and Village of New Glarus. These amounts shall be paid by June 30th of the "Calendar Year " of the agreement as follows:

5.1.1 The annual payment due shall be as calculated per the R.S. formula shown below.

5.1.2 An initial \$10,000/yr. payment shall continue through the year a new Library is being built and occupied. The balance of the R.S., as calculated each year, shall be placed in escrow by the Town and held for a maximum of ten years from the initial date of the agreement unless a new library is built whereupon the Town shall pay the escrowed amount to the Village. In the instance where no new library is built within the initial ten-year period the escrowed amounts shall revert to the Town's general fund and subsequent escrow accumulation shall cease.

- a. Within 30 days of occupancy of the new library the Town shall pay the Library Capital Fund the amount the Town has collected in Impact Fees related to library capital costs.
- b. In each year subsequent to occupancy, the Town shall pay to the Library Capital Fund any additional amounts the Town collects in Impact Fees related to library capital costs.
- c. The year following occupancy of the new library building by the library and each subsequent Calendar Year the Town shall pay the calculated R.S. amount.

- d. The Village agrees to set, and maintain each year of the agreement, an amount for library support in excess of year 2011's Maintenance of Effort.

5.2 Definitions:

- a. R.S. = annual revenue paid by Town to Village.
- b. % Cir. = % of Town's portion of circulation as calculated by the Library Director for immediately prior year.
- c. T.C.= Actual total operating cost of Library for immediately prior year.
- d. D.S. = Actual cost of debt service for immediately prior year.
- e. Tax = Taxes paid by Green County to the New Glarus Library for the Town of New Glarus's portion of operating costs for the prior year as calculated by the New Glarus Library Director & the S. Central Library System and based upon final statistics, as approved by the State.
- f. CBA = Cooperative Boundary Agreement
- g. Calendar Year = the year of the agreement in which payments are made by the Town.
- h. I.F. = Impact Fees as collected and retained by the Town for Library, pool or joint garage capital costs.
- i. Therefore, the $R.S. = \% \text{ Cir} \times (T.C. - D.S.) - \text{Tax}$.
The calculation for the "Calendar Year" shall be made as soon as possible after the numbers for % Cir, T.C., D.S., and Tax are available from third parties.

5.3 Impact Fees

When the Town pays Impact Fees to Village entities for certain projects it will be necessary to assure that the dollars go implicitly to the named capital expenditures and do not get mingled with non-capital funds. The Village will assure this happens with Impact Fee dollars flowing from Town to Village.

5.4 Village pays Town. See 4.1.1

SECTION 6 COMMERCIAL AND INDUSTRIAL DEVELOPMENT

6.1 The parties agree to work cooperatively in commercial and industrial (C&I) development in all areas contiguous with village boundaries. Additionally, both government parties will identify areas of targeted C&I development within and extending over their respective boundaries (i.e., areas straddling the village-town boundary), akin to

small business park areas.

- 6.1.1 Both government parties agree that C&I development is good for the community (village and town).
- 6.1.2 The intent is that C&I development shall be within the village or have access to Village services.
- 6.1.3 Each government party shall have veto power over annexation of C&I development property. Such veto power shall not be used unreasonably.
- 6.1.4 Consideration, monetary or otherwise, may be a part of the discussion when negotiating annexation of C&I development property.
- 6.1.5 Each party shall include negotiated amounts within their respective annual budgets to accommodate Commercial and Industrial development expenses for each year of the agreement.
- 6.1.6 The Village Community Development Association (CDA) shall be responsible for C & I development activities. The Town Board shall assign one Town resident who shall be appointed by the Town Board to the CDA during the term of this agreement.

SECTION 7. UTILITY EXTENSIONS

7.1 The Village agrees to allow extensions of utilities (sewer, water, electric, gas, telephone, cable storm water) into residential developments, adjacent to existing Village boundaries after developers have demonstrated compliance with all Village ETZ and Town land Use Ordinances, and who have signed development agreements as required by Town Ordinance and demonstrated adequate financial responsibility, including bonding or letter's of credit.

7.2 The Town consents to construction of utilities in Town R.O.W. subject to Village's obligation to maintain access to Town's facilities, restoration of safe R.O.W., and financial protection for the Town in case developer or contractor default.

7.3 Sanitary District development?

SECTION 8 DEVELOPMENT STANDARDS

8.1 The parties agreed all residential development immediately adjacent to Village boundary (See Map 08-11) shall be required to build to the then current Village standards regarding installation of streets, curb & gutter, street lights, storm sewers, sanitary sewers, electric, gas and cable utilities, sidewalks and driveways in all development of five or more residential dwelling units (See ETZ Ordinance).

8.2 Within developments in areas adjacent to the Village (Adjacent to the Black Line of map 08-11) Capital expenditures for water, sanitary sewer, storm sewer, curb & gutter, street design and construction, and street lights shall be ordered and paid for by the developer and extension of other utilities shall be ordered and paid for in accordance with utility extension rules as approved by the State PSC. Engineering for storm water facilities shall reviewed and approved by the Town's engineers after review by the Village's Engineer.

8.3 The Town agrees it shall amend its Land Use Ordinance (Chapter 110) to require developments adjacent to the Black Line of map 08-11 to sign a Pre-Annexation Agreement as provided by the Village's counsel. (Refer to 4.1.2).

SECTION 9 ZONING CHANGES

9.1 Agreed the Village will not object to certain zoning changes (See ETZ Ordinance, 305-112 D (2) & (b) and 305-114) that will be required to accommodate development within the Town and within the ETZ.

SECTION 10 STORMWATER

Planning/Engineering/Payment /Utility/Underground piping.

Durst Rd/East of Valle Telle dev.

SECTION 11 LIBRARY BOARD

11.1 The Village agrees that the Town shall appoint one Town Resident on the Library Board. The appointment shall be for normal term and shall be chosen by the Town Chair and be affirmed by the Town Board.

SECTION 12 JOINT PROJECTS

Joint Garage

Legler Valley Rd./Fourteenth Ave.

Additional projects may be added later per JPC

Additional sections to consider

Authorizing Resolutions

Dispute Resolutions (Arbitration/Mediation)

Challenges to the agreement

Binding Effect

Recording

Authority

Counterparts

Entire Agreement

